

ASSEMBLY BILL

No. 144

Introduced by Assembly Member Portantino

January 13, 2011

An act to amend Sections 7574.14 and 7582.2 of the Business and Professions Code, and to amend Sections 626.9, 16520, 17510, 25595, 25605, and 29805 of, to add Sections 17040, 17295, and 25590 to, and to add Chapter 6 (commencing with Section 26350) to Division 5 of Title 4 of Part 6 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 144, as introduced, Portantino. Firearms.

Existing law, subject to certain exceptions, makes it an offense to carry a concealed handgun on the person or in a vehicle, as specified. Existing law provides that firearms carried openly in belt holsters are not concealed within the meaning of those provisions.

This bill would establish an exemption to the offense for transportation of a firearm between certain areas where the firearm may be carried concealed, or loaded, or openly carried unloaded, as specified.

Existing law, subject to certain exceptions, makes it an offense to carry a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

The bill would, subject to exceptions, make it a misdemeanor to openly carry an unloaded handgun on the person in specified public areas.

By creating a new offense, this bill would impose a state-mandated local program.

The bill would make conforming and nonsubstantive technical changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7574.14 of the Business and Professions
- 2 Code is amended to read:
- 3 7574.14. This chapter shall not apply to the following:
- 4 (a) An officer or employee of the United States of America, or
- 5 of this state or a political subdivision thereof, while the officer or
- 6 employee is engaged in the performance of his or her official
- 7 duties, including uniformed peace officers employed part time by
- 8 a public agency pursuant to a written agreement between a chief
- 9 of police or sheriff and the public agency, provided the part-time
- 10 employment does not exceed 50 hours in any calendar month.
- 11 (b) A person engaged exclusively in the business of obtaining
- 12 and furnishing information as to the financial rating of persons.
- 13 (c) A charitable philanthropic society or association incorporated
- 14 under the laws of this state that is organized and duly maintained
- 15 for the public good and not for private profit.
- 16 (d) Patrol special police officers appointed by the police
- 17 commission of any city, county, or city and county under the
- 18 express terms of its charter who also under the express terms of
- 19 the charter (1) are subject to suspension or dismissal after a hearing
- 20 on charges duly filed with the commission after a fair and impartial
- 21 trial, (2) must be not less than 18 years of age nor more than 40
- 22 years of age, (3) must possess physical qualifications prescribed
- 23 by the commission, and (4) are designated by the police
- 24 commission as the owners of a certain beat or territory as may be
- 25 fixed from time to time by the police commission.
- 26 (e) An attorney at law in performing his or her duties as an
- 27 attorney at law.

1 (f) A collection agency or an employee thereof while acting
2 within the scope of his or her employment, while making an
3 investigation incidental to the business of the agency, including
4 an investigation of the location of a debtor or his or her property
5 where the contract with an assignor creditor is for the collection
6 of claims owed or due or asserted to be owed or due or the
7 equivalent thereof.

8 (g) Admitted insurers and agents and insurance brokers licensed
9 by the state, performing duties in connection with insurance
10 transacted by them.

11 (h) Any bank subject to the jurisdiction of the Commissioner
12 of Financial Institutions of the State of California under Division
13 1 (commencing with Section 99) of the Financial Code or the
14 Comptroller of Currency of the United States.

15 (i) A person engaged solely in the business of securing
16 information about persons or property from public records.

17 (j) A peace officer of this state or a political subdivision thereof
18 while the peace officer is employed by a private employer to
19 engage in off-duty employment in accordance with Section 1126
20 of the Government Code. However, nothing herein shall exempt
21 such a peace officer who either contracts for his or her services or
22 the services of others as a private patrol operator or contracts for
23 his or her services as or is employed as an armed private security
24 officer. For purposes of this subdivision, "armed security officer"
25 means an individual who carries or uses a firearm in the course
26 and scope of that contract or employment.

27 (k) A retired peace officer of the state or political subdivision
28 thereof when the retired peace officer is employed by a private
29 employer in employment approved by the chief law enforcement
30 officer of the jurisdiction where the employment takes place,
31 provided that the retired officer is in a uniform of a public law
32 enforcement agency, has registered with the bureau on a form
33 approved by the director, and has met any training requirements
34 or their equivalent as established for security personnel under
35 Section 7583.5. This officer may not carry *an unloaded and*
36 *exposed handgun unless he or she is exempted under the provisions*
37 *of Article 2 (commencing with Section 26361) of Chapter 6 of*
38 *Division 5 of Title 4 of Part 6 of the Penal Code, and may not*
39 *carry a loaded or concealed firearm unless he or she is exempted*
40 *under the provisions of Sections 25450 to 25475, inclusive, of the*

1 Penal Code or Sections 25900 to 25910, inclusive, of the Penal
2 Code or has met the requirements set forth in subdivision (d) of
3 Section 26030 of the Penal Code. However, nothing herein shall
4 exempt the retired peace officer who contracts for his or her
5 services or the services of others as a private patrol operator.

6 (l) A licensed insurance adjuster in performing his or her duties
7 within the scope of his or her license as an insurance adjuster.

8 (m) Any savings association subject to the jurisdiction of the
9 Commissioner of Financial Institutions or the Office of Thrift
10 Supervision.

11 (n) Any secured creditor engaged in the repossession of the
12 creditor's collateral and any lessor engaged in the repossession of
13 leased property in which it claims an interest.

14 (o) A peace officer in his or her official police uniform acting
15 in accordance with subdivisions (c) and (d) of Section 70 of the
16 Penal Code.

17 (p) An unarmed, uniformed security person employed
18 exclusively and regularly by a motion picture studio facility
19 employer who does not provide contract security services for other
20 entities or persons in connection with the affairs of that employer
21 only and where there exists an employer-employee relationship if
22 that person at no time carries or uses any deadly weapon, as defined
23 in subdivision (a), in the performance of his or her duties, which
24 may include, but are not limited to, the following business
25 purposes:

26 (1) The screening and monitoring access of employees of the
27 same employer.

28 (2) The screening and monitoring access of prearranged and
29 preauthorized invited guests.

30 (3) The screening and monitoring of vendors and suppliers.

31 (4) Patrolling the private property facilities for the safety and
32 welfare of all who have been legitimately authorized to have access
33 to the facility.

34 (q) An armored contract carrier operating armored vehicles
35 pursuant to the authority of the Department of the California
36 Highway Patrol or the Public Utilities Commission, or an armored
37 vehicle guard employed by an armored contract carrier.

38 SEC. 2. Section 7582.2 of the Business and Professions Code
39 is amended to read:

40 7582.2. This chapter does not apply to the following:

1 (a) A person who does not meet the requirements to be a
2 proprietary private security officer, as defined in Section 7574.1,
3 and is employed exclusively and regularly by any employer who
4 does not provide contract security services for other entities or
5 persons, in connection with the affairs of the employer only and
6 where there exists an employer-employee relationship if that person
7 at no time carries or uses any deadly weapon in the performance
8 of his or her duties. For purposes of this subdivision, “deadly
9 weapon” is defined to include any instrument or weapon of the
10 kind commonly known as a blackjack, slungshot, billy, sandclub,
11 sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any
12 other firearm, any knife having a blade longer than five inches,
13 any razor with an unguarded blade and any metal pipe or bar used
14 or intended to be used as a club.

15 (b) An officer or employee of the United States of America, or
16 of this state or a political subdivision thereof, while the officer or
17 employee is engaged in the performance of his or her official
18 duties, including uniformed peace officers employed part time by
19 a public agency pursuant to a written agreement between a chief
20 of police or sheriff and the public agency, provided the part-time
21 employment does not exceed 50 hours in any calendar month.

22 (c) A person engaged exclusively in the business of obtaining
23 and furnishing information as to the financial rating of persons.

24 (d) A charitable philanthropic society or association duly
25 incorporated under the laws of this state that is organized and
26 maintained for the public good and not for private profit.

27 (e) Patrol special police officers appointed by the police
28 commission of any city, county, or city and county under the
29 express terms of its charter who also under the express terms of
30 the charter (1) are subject to suspension or dismissal after a hearing
31 on charges duly filed with the commission after a fair and impartial
32 trial, (2) must be not less than 18 years of age nor more than 40
33 years of age, (3) must possess physical qualifications prescribed
34 by the commission, and (4) are designated by the police
35 commission as the owners of a certain beat or territory as may be
36 fixed from time to time by the police commission.

37 (f) An attorney at law in performing his or her duties as an
38 attorney at law.

39 (g) A collection agency or an employee thereof while acting
40 within the scope of his or her employment, while making an

1 investigation incidental to the business of the agency, including
2 an investigation of the location of a debtor or his or her property
3 where the contract with an assignor creditor is for the collection
4 of claims owed or due or asserted to be owed or due or the
5 equivalent thereof.

6 (h) Admitted insurers and agents and insurance brokers licensed
7 by the state, performing duties in connection with insurance
8 transacted by them.

9 (i) Any bank subject to the jurisdiction of the Commissioner of
10 Financial Institutions of the State of California under Division 1
11 (commencing with Section 99) of the Financial Code or the
12 Comptroller of Currency of the United States.

13 (j) A person engaged solely in the business of securing
14 information about persons or property from public records.

15 (k) A peace officer of this state or a political subdivision thereof
16 while the peace officer is employed by a private employer to
17 engage in off-duty employment in accordance with Section 1126
18 of the Government Code. However, nothing herein shall exempt
19 a peace officer who either contracts for his or her services or the
20 services of others as a private patrol operator or contracts for his
21 or her services as or is employed as an armed private security
22 officer. For purposes of this subdivision, "armed security officer"
23 means an individual who carries or uses a firearm in the course
24 and scope of that contract or employment.

25 (l) A retired peace officer of the state or political subdivision
26 thereof when the retired peace officer is employed by a private
27 employer in employment approved by the chief law enforcement
28 officer of the jurisdiction where the employment takes place,
29 provided that the retired officer is in a uniform of a public law
30 enforcement agency, has registered with the bureau on a form
31 approved by the director, and has met any training requirements
32 or their equivalent as established for security personnel under
33 Section 7583.5. This officer may not carry *an unloaded and*
34 *exposed handgun unless he or she is exempted under the provisions*
35 *of Article 2 (commencing with Section 26361) of Chapter 6 of*
36 *Division 5 of Title 4 of Part 6 of the Penal Code, and may not*
37 *carry a loaded or concealed firearm unless he or she is exempted*
38 *under the provisions of Article 2 (commencing with Section 25450)*
39 *of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code*
40 *or Sections 25900 to 25910, inclusive, of the Penal Code or has*

1 met the requirements set forth in subdivision (d) of Section 26030
2 of the Penal Code. However, nothing herein shall exempt the retired
3 peace officer who contracts for his or her services or the services
4 of others as a private patrol operator.

5 (m) A licensed insurance adjuster in performing his or her duties
6 within the scope of his or her license as an insurance adjuster.

7 (n) Any savings association subject to the jurisdiction of the
8 Commissioner of Financial Institutions or the Office of Thrift
9 Supervision.

10 (o) Any secured creditor engaged in the repossession of the
11 creditor's collateral and any lessor engaged in the repossession of
12 leased property in which it claims an interest.

13 (p) A peace officer in his or her official police uniform acting
14 in accordance with subdivisions (c) and (d) of Section 70 of the
15 Penal Code.

16 (q) An unarmed, uniformed security person employed
17 exclusively and regularly by a motion picture studio facility
18 employer who does not provide contract security services for other
19 entities or persons in connection with the affairs of that employer
20 only and where there exists an employer-employee relationship if
21 that person at no time carries or uses any deadly weapon, as defined
22 in subdivision (a), in the performance of his or her duties, which
23 may include, but are not limited to, the following business
24 purposes:

25 (1) The screening and monitoring access of employees of the
26 same employer.

27 (2) The screening and monitoring access of prearranged and
28 preauthorized invited guests.

29 (3) The screening and monitoring of vendors and suppliers.

30 (4) Patrolling the private property facilities for the safety and
31 welfare of all who have been legitimately authorized to have access
32 to the facility.

33 (r) The changes made to this section by the act adding this
34 subdivision during the 2005–06 Regular Session of the Legislature
35 shall apply as follows:

36 (1) On and after July 1, 2006, to a person hired as a security
37 officer on and after January 1, 2006.

38 (2) On and after January 1, 2007, to a person hired as a security
39 officer before January 1, 2006.

40 SEC. 3. Section 626.9 of the Penal Code is amended to read:

1 626.9. (a) This section shall be known, and may be cited, as
2 the Gun-Free School Zone Act of 1995.

3 (b) Any person who possesses a firearm in a place that the
4 person knows, or reasonably should know, is a school zone, as
5 defined in paragraph (1) of subdivision (e), unless it is with the
6 written permission of the school district superintendent, his or her
7 designee, or equivalent school authority, shall be punished as
8 specified in subdivision (f).

9 (c) Subdivision (b) does not apply to the possession of a firearm
10 under any of the following circumstances:

11 (1) Within a place of residence or place of business or on private
12 property, if the place of residence, place of business, or private
13 property is not part of the school grounds and the possession of
14 the firearm is otherwise lawful.

15 (2) When the firearm is an unloaded pistol, revolver, or other
16 firearm capable of being concealed on the person and is in a locked
17 container or within the locked trunk of a motor vehicle.

18 This section does not prohibit or limit the otherwise lawful
19 transportation of any other firearm, other than a pistol, revolver,
20 or other firearm capable of being concealed on the person, in
21 accordance with state law.

22 (3) When the person possessing the firearm reasonably believes
23 that he or she is in grave danger because of circumstances forming
24 the basis of a current restraining order issued by a court against
25 another person or persons who has or have been found to pose a
26 threat to his or her life or safety. This subdivision may not apply
27 when the circumstances involve a mutual restraining order issued
28 pursuant to Division 10 (commencing with Section 6200) of the
29 Family Code absent a factual finding of a specific threat to the
30 person's life or safety. Upon a trial for violating subdivision (b),
31 the trier of a fact shall determine whether the defendant was acting
32 out of a reasonable belief that he or she was in grave danger.

33 (4) When the person is exempt from the prohibition against
34 carrying a concealed firearm pursuant to Section 25615, 25625,
35 25630, or 25645.

36 (d) Except as provided in subdivision (b), it shall be unlawful
37 for any person, with reckless disregard for the safety of another,
38 to discharge, or attempt to discharge, a firearm in a school zone,
39 as defined in paragraph (1) of subdivision (e).

1 The prohibition contained in this subdivision does not apply to
2 the discharge of a firearm to the extent that the conditions of
3 paragraph (1) of subdivision (c) are satisfied.

4 (e) As used in this section, the following definitions shall apply:

5 (1) "School zone" means an area in, or on the grounds of, a
6 public or private school providing instruction in kindergarten or
7 grades 1 to 12, inclusive, or within a distance of 1,000 feet from
8 the grounds of the public or private school.

9 (2) "Firearm" has the same meaning as that term is given in
10 subdivisions (a) to (d), inclusive, of Section 16520.

11 (3) "Locked container" has the same meaning as that term is
12 given in Section 16850.

13 (4) "Concealed firearm" has the same meaning as that term is
14 given in Sections 25400 and 25610.

15 (f) (1) Any person who violates subdivision (b) by possessing
16 a firearm in, or on the grounds of, a public or private school
17 providing instruction in kindergarten or grades 1 to 12, inclusive,
18 shall be punished by imprisonment in the state prison for two,
19 three, or five years.

20 (2) Any person who violates subdivision (b) by possessing a
21 firearm within a distance of 1,000 feet from the grounds of a public
22 or private school providing instruction in kindergarten or grades
23 1 to 12, inclusive, shall be punished as follows:

24 (A) By imprisonment in the state prison for two, three, or five
25 years, if any of the following circumstances apply:

26 (i) If the person previously has been convicted of any felony,
27 or of any crime made punishable by any provision listed in Section
28 16580.

29 (ii) If the person is within a class of persons prohibited from
30 possessing or acquiring a firearm pursuant to Chapter 2
31 (commencing with Section 29800) or Chapter 3 (commencing with
32 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
33 Section 8100 or 8103 of the Welfare and Institutions Code.

34 (iii) If the firearm is any pistol, revolver, or other firearm capable
35 of being concealed upon the person and the offense is punished as
36 a felony pursuant to Section 25400.

37 (B) By imprisonment in a county jail for not more than one year
38 or by imprisonment in the state prison for two, three, or five years,
39 in all cases other than those specified in subparagraph (A).

(3) Any person who violates subdivision (d) shall be punished by imprisonment in the state prison for three, five, or seven years.

(g) (1) Every person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) Every person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by any provision listed in Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 25605, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university

1 or college authority, shall be punished by imprisonment in the state
2 prison for two, three, or four years. Notwithstanding subdivision
3 (k), a university or college shall post a prominent notice at primary
4 entrances on noncontiguous property stating that firearms are
5 prohibited on that property pursuant to this subdivision.

6 (i) Notwithstanding Section 25605, any person who brings or
7 possesses a firearm upon the grounds of a campus of, or buildings
8 owned or operated for student housing, teaching, research, or
9 administration by, a public or private university or college, that
10 are contiguous or are clearly marked university property, unless
11 it is with the written permission of the university or college
12 president, his or her designee, or equivalent university or college
13 authority, shall be punished by imprisonment in the state prison
14 for one, two, or three years. Notwithstanding subdivision (k), a
15 university or college shall post a prominent notice at primary
16 entrances on noncontiguous property stating that firearms are
17 prohibited on that property pursuant to this subdivision.

18 (j) For purposes of this section, a firearm shall be deemed to be
19 loaded when there is an unexpended cartridge or shell, consisting
20 of a case that holds a charge of powder and a bullet or shot, in, or
21 attached in any manner to, the firearm, including, but not limited
22 to, in the firing chamber, magazine, or clip thereof attached to the
23 firearm. A muzzle-loader firearm shall be deemed to be loaded
24 when it is capped or primed and has a powder charge and ball or
25 shot in the barrel or cylinder.

26 (k) This section does not require that notice be posted regarding
27 the proscribed conduct.

28 (l) This section does not apply to a duly appointed peace officer
29 as defined in Chapter 4.5 (commencing with Section 830) of Title
30 3 of Part 2, a full-time paid peace officer of another state or the
31 federal government who is carrying out official duties while in
32 California, any person summoned by any of these officers to assist
33 in making arrests or preserving the peace while he or she is actually
34 engaged in assisting the officer, a member of the military forces
35 of this state or of the United States who is engaged in the
36 performance of his or her duties, a person holding a valid license
37 to carry the firearm pursuant to Chapter 4 (commencing with
38 Section 26150) of Division 5 of Title 4 of Part 6, or an armored
39 vehicle guard, engaged in the performance of his or her duties, as

1 defined in subdivision (e) of Section 7521 of the Business and
2 Professions Code.

3 (m) *(1)* This section does not apply to a security guard
4 authorized to carry a loaded firearm pursuant to Article 4
5 (commencing with Section 26000) of Chapter 3 of Division 5 of
6 Title 4 of Part 6.

7 *(2)* This section does not apply to a security guard authorized
8 to openly carry an unloaded handgun pursuant to Chapter 6
9 (commencing with Section 26350) of Division 5 of Title 4 of Part
10 6.

11 (n) This section does not apply to an existing shooting range at
12 a public or private school or university or college campus.

13 (o) This section does not apply to an honorably retired peace
14 officer authorized to carry a concealed or loaded firearm pursuant
15 to any of the following:

16 (1) Article 2 (commencing with Section 25450) of Chapter 2
17 of Division 5 of Title 4 of Part 6.

18 (2) Section 25650.

19 (3) Sections 25900 to 25910, inclusive.

20 (4) Section 26020.

21 *(p)* This section does not apply to an honorably retired peace
22 officer authorized to openly carry an unloaded handgun pursuant
23 to Section 26361.

24 SEC. 4. Section 16520 of the Penal Code is amended to read:

25 16520. (a) As used in this part, “firearm” means any device,
26 designed to be used as a weapon, from which is expelled through
27 a barrel, a projectile by the force of any explosion or other form
28 of combustion.

29 (b) As used in the following provisions, “firearm” includes the
30 frame or receiver of the weapon:

31 (1) Section 16550.

32 (2) Section 16730.

33 (3) Section 16960.

34 (4) Section 16990.

35 (5) Section 17070.

36 (6) Section 17310.

37 (7) Sections 26500 to 26588, inclusive.

38 (8) Sections 26600 to 27140, inclusive.

39 (9) Sections 27400 to 28000, inclusive.

40 (10) Section 28100.

- 1 (11) Sections 28400 to 28415, inclusive.
- 2 (12) Sections 29010 to 29150, inclusive.
- 3 (13) Sections 29610 to 29750, inclusive.
- 4 (14) Sections 29800 to 29905, inclusive.
- 5 (15) Sections 30150 to 30165, inclusive.
- 6 (16) Section 31615.
- 7 (17) Sections 31705 to 31830, inclusive.
- 8 (18) Sections 34355 to 34370, inclusive.
- 9 (19) Sections 8100, 8101, and 8103 of the Welfare and
- 10 Institutions Code.
- 11 (c) As used in the following provisions, “firearm” also includes
- 12 any rocket, rocket propelled projectile launcher, or similar device
- 13 containing any explosive or incendiary material whether or not
- 14 the device is designed for emergency or distress signaling purposes:
- 15 (1) Section 16750.
- 16 (2) Subdivision (b) of Section 16840.
- 17 (3) Section 25400.
- 18 (4) Sections 25850 to 26025, inclusive.
- 19 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 20 (6) Sections 26035 to 26055, inclusive.
- 21 (d) As used in the following provisions, “firearm” does not
- 22 include an unloaded antique firearm:
- 23 (1) Subdivisions (a) and (c) of Section 16730.
- 24 (2) Section 16550.
- 25 (3) Section 16960.
- 26 (4) Section 17310.
- 27 (5) *Chapter 6 (commencing with Section 26350) of Division 5*
- 28 *of Title 4.*
- 29 ~~(5)~~
- 30 (6) Sections 26500 to 26588, inclusive.
- 31 ~~(6)~~
- 32 (7) Sections 26700 to 26915, inclusive.
- 33 ~~(7)~~
- 34 (8) Section 27510.
- 35 ~~(8)~~
- 36 (9) Section 27530.
- 37 ~~(9)~~
- 38 (10) Section 27540.
- 39 ~~(10)~~
- 40 (11) Section 27545.

1 ~~(11)~~

2 ~~(12)~~ Sections 27555 to 27570, inclusive.

3 ~~(12)~~

4 ~~(13)~~ Sections 29010 to 29150, inclusive.

5 (e) As used in Sections 34005 and 34010, “firearm” does not
6 include a destructive device.

7 (f) As used in Sections 17280 and 24680, “firearm” has the
8 same meaning as in Section 922 of Title 18 of the United States
9 Code.

10 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
11 includes the unfinished frame or receiver of a weapon that can be
12 readily converted to the functional condition of a finished frame
13 or receiver.

14 SEC. 5. Section 17040 is added to the Penal Code, to read:

15 17040. As used in Chapter 6 (commencing with Section 26350)
16 of Division 5 of Title 4, “public place” has the same meaning as
17 in Section 25850.

18 SEC. 6. Section 17295 is added to the Penal Code, to read:

19 17295. For purposes of Chapter 6 (commencing with Section
20 26350) of Division 5 of Title 4, a handgun shall be deemed
21 “unloaded” if it is not “loaded” within the meaning of subdivision
22 (b) of Section 16840.

23 SEC. 7. Section 17510 of the Penal Code is amended to read:

24 17510. (a) Any person who does any of the following acts
25 while engaged in picketing, or other informational activities in a
26 public place relating to a concerted refusal to work, is guilty of a
27 misdemeanor:

28 (1) Carries concealed upon the person, or within any vehicle
29 which is under the person’s control or direction, any pistol,
30 revolver, or other firearm capable of being concealed upon the
31 person.

32 (2) Carries a loaded firearm upon the person or within any
33 vehicle that is under the person’s control or direction.

34 (3) Carries a deadly weapon.

35 (4) *Openly carries an unloaded handgun upon the person*
36 *outside of a vehicle.*

37 (b) This section shall not be construed to authorize or ratify any
38 picketing or other informational activities not otherwise authorized
39 by law.

(c) The following provisions shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a):

(1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4.

(2) Sections 25615 to 25655, inclusive.

(d) Sections 25900 to 26020, inclusive, shall not be construed to authorize any conduct described in paragraph (2) of subdivision (a).

(e) *Article 2 (commencing with Section 26361) of Chapter 6 of Division 5 of Title 4 shall not be construed to authorize any conduct described in paragraph (4) of subdivision (a).*

SEC. 8. Section 25590 is added to the Penal Code, to read:

25590. Section 25400 does not apply to, or affect, the transportation of a firearm by a person if done directly between any of the places set forth below:

(a) A place where the person may carry that firearm pursuant to an exemption from the prohibition set forth in subdivision (a) of Section 25400.

(b) A place where that person may carry that firearm pursuant to an exemption from the prohibition set forth in subdivision (a) of Section 25850, or a place where the prohibition set forth in subdivision (a) of Section 25850 does not apply.

(c) A place where that person may carry a firearm pursuant to an exemption from the prohibition set forth in subdivision (a) of Section 26350, or a place where the prohibition set forth in subdivision (a) of Section 26350 does not apply.

SEC. 9. Section 25595 of the Penal Code is amended to read:

25595. This article does not prohibit or limit the otherwise lawful carrying or transportation of any ~~pistol, revolver, or other firearm capable of being concealed upon the person~~ *handgun* in accordance with the provisions listed in Section 16580.

SEC. 10. Section 25605 of the Penal Code is amended to read:

25605. (a) Section 25400 *and Chapter 6 (commencing with Section 26350) of Division 5* shall not apply to or affect any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, who carries, either openly or concealed,

1 anywhere within the citizen's or legal resident's place of residence,
2 place of business, or on private property owned or lawfully
3 possessed by the citizen or legal resident, any ~~pistol, revolver, or~~
4 ~~other firearm capable of being concealed upon the person~~ *handgun*.

5 (b) No permit or license to purchase, own, possess, keep, or
6 carry, either openly or concealed, shall be required of any citizen
7 of the United States or legal resident over the age of 18 years who
8 resides or is temporarily within this state, and who is not within
9 the excepted classes prescribed by Chapter 2 (commencing with
10 Section 29800) or Chapter 3 (commencing with Section 29900)
11 of Division 9 of this title, or Section 8100 or 8103 of the Welfare
12 and Institutions Code, to purchase, own, possess, keep, or carry,
13 either openly or concealed, a ~~pistol, revolver, or other firearm~~
14 ~~capable of being concealed upon the person~~ *handgun* within the
15 citizen's or legal resident's place of residence, place of business,
16 or on private property owned or lawfully possessed by the citizen
17 or legal resident.

18 (c) Nothing in this section shall be construed as affecting the
19 application of Sections 25850 to 26055, inclusive.

20 SEC. 11. Chapter 6 (commencing with Section 26350) is added
21 to Division 5 of Title 4 of Part 6 of the Penal Code, to read:

22
23 CHAPTER 6. OPENLY CARRYING AN UNLOADED HANDGUN
24

25 Article 1. Crime of Openly Carrying an Unloaded Handgun
26

27 26350. (a) A person is guilty of openly carrying an unloaded
28 handgun when that person carries upon his or her person an
29 exposed and unloaded handgun outside a vehicle while in or on
30 any of the following:

31 (1) A public place or public street in an incorporated city or city
32 and county.

33 (2) A public street in a prohibited area of an unincorporated
34 area of a county or city and county.

35 (3) A public place in a prohibited area of a county or city and
36 county.

37 (b) (1) Except as specified in paragraph (2), a violation of this
38 section is a misdemeanor.

39 (2) A violation of paragraph (1) of subdivision (a), if the
40 handgun and unexpended ammunition capable of being discharged

1 from that firearm are in the immediate possession of the person,
2 and the person is not listed as the registered owner of the firearm
3 with the Department of Justice pursuant to Section 11106, is
4 punishable by imprisonment in a county jail not to exceed one
5 year, or by a fine not to exceed one thousand dollars (\$1,000), or
6 by both that fine and imprisonment.

7 (c) (1) Nothing in this section shall preclude prosecution under
8 Chapter 2 (commencing with Section 29800) or Chapter 3
9 (commencing with Section 29900) of Division 9, Section 8100 or
10 8103 of the Welfare and Institutions Code, or any other law with
11 a penalty greater than is set forth in this section.

12 (2) The provisions of this section are cumulative and shall not
13 be construed as restricting the application of any other law.
14 However, an act or omission punishable in different ways by
15 different provisions of law shall not be punished under more than
16 one provision.

17 (d) Notwithstanding the fact that the term “an unloaded
18 handgun” is used in this section, each handgun shall constitute a
19 distinct and separate offense under this section.

20 21 Article 2. Exemptions

22
23 26361. Section 26350 does not apply to, or affect, the open
24 carrying of an unloaded handgun by any peace officer or any
25 honorably retired peace officer if that officer may carry a concealed
26 firearm pursuant to Article 2 (commencing with Section 25450)
27 of Chapter 2, or a loaded firearm pursuant to Article 3
28 (commencing with Section 25900) of Chapter 3.

29 26362. Section 26350 does not apply to, or affect, the open
30 carrying of an unloaded handgun by any person to the extent that
31 person may carry a loaded firearm pursuant to Article 4
32 (commencing with Section 26000) of Chapter 3.

33 26363. Section 26350 does not apply to, or affect, the open
34 carrying of an unloaded handgun as merchandise by a person who
35 is engaged in the business of manufacturing, importing,
36 wholesaling, repairing, or dealing in firearms and who is licensed
37 to engage in that business, or the authorized representative or
38 authorized agent of that person, while engaged in the lawful course
39 of the business.

1 26364. Section 26350 does not apply to, or affect, the open
2 carrying of an unloaded handgun by a duly authorized military or
3 civil organization, or the members thereof, while parading or while
4 rehearsing or practicing parading, when at the meeting place of
5 the organization.

6 26365. Section 26350 does not apply to, or affect, the open
7 carrying of an unloaded handgun by a member of any club or
8 organization organized for the purpose of practicing shooting at
9 targets upon established target ranges, whether public or private,
10 while the members are using handguns upon the target ranges or
11 incident to the use of a handgun at that target range.

12 26366. Section 26350 does not apply to, or affect, the open
13 carrying of an unloaded handgun by a licensed hunter while
14 engaged in hunting or while transporting that handgun when going
15 to or returning from that hunting expedition.

16 26367. Section 26350 does not apply to, or affect, the open
17 carrying of an unloaded handgun incident to transportation of a
18 handgun by a person operating a licensed common carrier, or by
19 an authorized agent or employee thereof, when transported in
20 conformance with applicable federal law.

21 26368. Section 26350 does not apply to, or affect, the open
22 carrying of an unloaded handgun by a member of an organization
23 chartered by the Congress of the United States or a nonprofit
24 mutual or public benefit corporation organized and recognized as
25 a nonprofit tax-exempt organization by the Internal Revenue
26 Service while on official parade duty or ceremonial occasions of
27 that organization or while rehearsing or practicing for official
28 parade duty or ceremonial occasions.

29 26369. Section 26350 does not apply to, or affect, the open
30 carrying of an unloaded handgun within a gun show conducted
31 pursuant to Article 1 (commencing with Section 27200) and Article
32 2 (commencing with Section 27300) of Chapter 3 of Division 6.

33 26370. Section 26350 does not apply to, or affect, the open
34 carrying of an unloaded handgun within a school zone, as defined
35 in Section 626.9, with the written permission of the school district
36 superintendent, the superintendent's designee, or equivalent school
37 authority.

38 26371. Section 26350 does not apply to, or affect, the open
39 carrying of an unloaded handgun when in accordance with the
40 provisions of Section 171b.

1 26372. Section 26350 does not apply to, or affect, the open
2 carrying of an unloaded handgun by any person while engaged in
3 the act of making or attempting to make a lawful arrest.

4 26373. Section 26350 does not apply to, or affect, the open
5 carrying of an unloaded handgun incident to loaning, selling, or
6 transferring that handgun in accordance with Article 1
7 (commencing with Section 27500) of Chapter 4 of Division 6, or
8 in accordance with any of the exemptions from Section 27545, so
9 long as that handgun is possessed within private property and the
10 possession and carrying is with the permission of the owner or
11 lessee of that private property.

12 26374. Section 26350 does not apply to, or affect, the open
13 carrying of an unloaded handgun by a person engaged in
14 firearms-related activities, while on the premises of a fixed place
15 of business that is licensed to conduct and conducts, as a regular
16 course of its business, activities related to the sale, making, repair,
17 transfer, pawn, or the use of firearms, or related to firearms training.

18 26375. Section 26350 does not apply to, or affect, the open
19 carrying of an unloaded handgun by an authorized participant in,
20 or an authorized employee or agent of a supplier of firearms for,
21 a motion picture, television or video production, or entertainment
22 event, when the participant lawfully uses the handgun as part of
23 that production or event, as part of rehearsing or practicing for
24 participation in that production or event, or while the participant
25 or authorized employee or agent is at that production or event, or
26 rehearsal or practice for that production or event.

27 26376. Section 26350 does not apply to, or affect, the open
28 carrying of an unloaded handgun incident to obtaining an
29 identification number or mark assigned for that handgun from the
30 Department of Justice pursuant to Section 23910.

31 26377. Section 26350 does not apply to, or affect, the open
32 carrying of an unloaded handgun at any established target range,
33 whether public or private, while the person is using the handgun
34 upon the target range.

35 26378. Section 26350 does not apply to, or affect, the open
36 carrying of an unloaded handgun by a person when that person is
37 summoned by a peace officer to assist in making arrests or
38 preserving the peace, while the person is actually engaged in
39 assisting that officer.

1 26379. Section 26350 does not apply to, or affect, the open
2 carrying of an unloaded handgun incident to any of the following:

3 (a) Complying with Section 27560 or 27565, as it pertains to
4 that handgun.

5 (b) Section 28000, as it pertains to that handgun.

6 (c) Section 27850 or 31725, as it pertains to that handgun.

7 (d) Complying with Section 27870 or 27875, as it pertains to
8 that handgun.

9 (e) Complying with Section 27915, 27920, or 27925, as it
10 pertains to that handgun.

11 26380. Section 26350 does not apply to, or affect, the open
12 carrying of an unloaded handgun incident to, and in the course and
13 scope of, training of or by an individual to become a sworn peace
14 officer as part of a course of study approved by the Commission
15 on Peace Officer Standards and Training.

16 26381. Section 26350 does not apply to, or affect, the open
17 carrying of an unloaded handgun incident to, and in the course and
18 scope of, training of or by an individual to become licensed
19 pursuant to Chapter 4 (commencing with Section 26150) as part
20 of a course of study necessary or authorized by the person
21 authorized to issue the license pursuant to that chapter.

22 26382. Section 26350 does not apply to, or affect, the open
23 carrying of an unloaded handgun incident to and at the request of
24 a sheriff or chief or other head of a municipal police department.

25 26383. Section 26350 does not apply to, or affect, the open
26 carrying of an unloaded handgun by a person when done within a
27 place of business, a place of residence, or on private property, if
28 done with the permission of a person who, by virtue of subdivision
29 (a) of Section 25605, may carry openly an unloaded handgun
30 within that place of business, place of residence, or on that private
31 property owned or lawfully possessed by that person.

32 26384. Section 26350 does not apply to, or affect, the open
33 carrying of an unloaded handgun if all of the following conditions
34 are satisfied:

35 (a) The open carrying occurs at an auction or similar event of
36 a nonprofit public benefit or mutual benefit corporation, at which
37 firearms are auctioned or otherwise sold to fund the activities of
38 that corporation or the local chapters of that corporation.

39 (b) The unloaded handgun is to be auctioned or otherwise sold
40 for that nonprofit public benefit or mutual benefit corporation.

1 (c) The unloaded handgun is to be delivered by a person licensed
2 pursuant to, and operating in accordance with, Sections 26700 to
3 26925, inclusive.

4 26385. Section 26350 does not apply to, or affect, the open
5 carrying of an unloaded handgun pursuant to paragraph (3) of
6 subdivision (b) of Section 171c.

7 26386. Section 26350 does not apply to, or affect, the open
8 carrying of an unloaded handgun pursuant to Section 171d.

9 26387. Section 26350 does not apply to, or affect, the open
10 carrying of an unloaded handgun pursuant to subparagraph (F) of
11 paragraph (1) subdivision (c) of Section 171.7.

12 26388. Section 26350 does not apply to, or affect, the open
13 carrying of an unloaded handgun on publicly owned land, if the
14 possession and use of a handgun is specifically permitted by the
15 managing agency of the land and the person carrying that handgun
16 is listed as the registered owner of that handgun with the
17 Department of Justice pursuant to Section 11106.

18 26389. Section 26350 does not apply to, or affect, the open
19 carrying of an unloaded handgun if all of the following apply:

20 (a) The handgun is carried on a public street or in a public place
21 in a prohibited area of an unincorporated area of a county or city
22 and county that is less than 200,000 persons according to the most
23 recent federal decennial census.

24 (b) The person carrying that handgun is listed as the registered
25 owner of that handgun with the Department of Justice pursuant to
26 Section 11106.

27 (c) The area where that person is carrying that handgun is not
28 a public street or a public place in a prohibited area of an
29 unincorporated territory of a county where that unincorporated
30 territory is completely bordered by an incorporated city.

31 SEC. 12. Section 29805 of the Penal Code is amended to read:

32 29805. Except as provided in Section 29855 or subdivision (a)
33 of Section 29800, any person who has been convicted of a
34 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
35 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
36 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5,
37 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of
38 former Section 12100, as that section read at any time from when
39 it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988
40 to when it was repealed by Section 18 of Chapter 23 of the Statutes

1 of 1994, Section 17500, *paragraph (1), (2) or (3) of subdivision*
2 *(a) of Section 17510, Section 25300, 25800, 30315, or 32625,*
3 *subdivision (b) or (d) of Section 26100, or Section 27510, or*
4 *Section 8100, 8101, or 8103 of the Welfare and Institutions Code,*
5 *any firearm-related offense pursuant to Sections 871.5 and 1001.5*
6 *of the Welfare and Institutions Code, or of the conduct punished*
7 *in subdivision (c) of Section 27590, and who, within 10 years of*
8 *the conviction, owns, purchases, receives, or has in possession or*
9 *under custody or control, any firearm is guilty of a public offense,*
10 *which shall be punishable by imprisonment in a county jail not*
11 *exceeding one year or in the state prison, by a fine not exceeding*
12 *one thousand dollars (\$1,000), or by both that imprisonment and*
13 *fine. The court, on forms prescribed by the Department of Justice,*
14 *shall notify the department of persons subject to this section.*
15 *However, the prohibition in this section may be reduced,*
16 *eliminated, or conditioned as provided in Section 29855 or 29860.*
17 SEC. 13. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.